

Appl. No. : 10/615,332
Filed : July 8, 2003

REMARKS

In response to the Office Action mailed August 30, 2006, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Election/Restrictions

Applicant acknowledges the withdrawal of Claims 1-11. These claims have been now canceled, without prejudice. Applicant reserves the right to pursue these claims or claims of similar scope in a divisional or continuing application.

Claim Rejections

Claims 12-14, 18-23 and 26 stand rejected as anticipated by Murakami (USPN 6,126,994). Claims 15 and 16 stand rejected as unpatentable over Murakami in view of Kaloyeros (USPN 5,376,409). Claims 17, 31 and 32 stand rejected as unpatentable over Murakami in view of Kaloyeros and in view of Sturm (USPN 6,178,925). Claims 24 and 25 stand rejected as unpatentable over Murakami in view of Van Buskirk (USPN 5,882,416). Claims 27-30 stand rejected as unpatentable over Murakami in view of Bondestram (USPN 7,063,981). Claims 33 and 34 stand rejected as unpatentable over Murakami in view of Gauthier (USPN 6,007,330).

Applicant respectfully disagrees with the rejection of these claims. Nevertheless, to advance prosecution, Applicant has amended independent Claim 12 as outlined below. Applicant reserves the right to pursue Claims 12-34 in the original or similar form in a continuing application.

As amended, Claim 12 recites, in part, a method for providing vapor phase reactant from solid or liquid source, "returning the unvaporized liquid to the storage container; and returning the unvaporized liquid to the vaporization chamber." In rejecting Claim 18 (now canceled), which included a similar limitation, the Office Action states that Murakami "shows a discharge passage 52 that collects unvaporized liquid from the evaporated and is connected to reservoir 4 in Figure 1." The Office Action also acknowledges that "Murakami does not 'explicitly disclose the unvaporized liquid flowing from discharge passage 42 into reservoir 4.'" Nevertheless, the Office Action states that "one of ordinary skill in the art would recognize that the only utility of connecting a discharge passage from the evaporator into the reservoir would be to drain unvaporized liquid back to the reservoir." Applicant respectfully disagrees.

First, Applicant notes that the Office Action appears to be claiming that Murakami *inherently* discloses collecting the unvaporized liquid from the evaporator in the reservoir 4. In addition, Applicant notes that Claim 12 as amended is a *method* claim that positively recites this step.

As the Examiner knows, “the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.” M.P.E.P. § 2112(IV) (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (emphasis added). “Inherency . . . may not be established by probabilities or possibilities [and] the mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *Id.* (citing *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950–51 (Fed. Cir. 1999) (emphasis added).

In this case, the connection Murakami merely discloses common connections and passages between the passage 52 and the container 4. However, Applicant submits that this does not inherently mean that Murakami discloses collecting such unvaporized liquid in the reservoir. The common passages serve another purpose. Specifically, as stated at Col 5, lines 48-55, Murakami discloses that:

In the present embodiment, considering a case that the residual liquid, etc. cannot be sufficiently drawn off by draw through the discharge passage 52, a purge (washing) liquid supply passage 64 is connected to the second pressure liquid supply passage 24B through a pressurization passage 10 which can be disconnected by a valve operation. Purge (washing) liquids can be alcohol, such as ethanol, methanol, etc., and organic solvents, such as hexane, etc.

Thus, there is an equally sufficient use for the connection V1, 54C between the discharge passage 42 and the container. That is, the passage 54C provides a connection to the passage 10 for washing.

Murakami also discloses at Col. 8, lines 1-10:

First, the first and the second opening/closing valves VA, VB of the reservoir 4 in FIG. 1 are closed to place the reservoir out of communication. The first shut-off valve V1 of the second pressure liquid supply passage 24B is opened, the second shut-off valve V2 thereof being closed. The first and the second discharge shut-off valves V5, V6 of the branched passages 54A, 54B communicated with the discharge passage 52 are closed, the third discharge shut-off valve V7 of the branched passage 54C and the main opening/closing valve V4 being opened.

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Thus, residual liquid material on the mouth ring of the pipe of the reservoir 4, and that on the mouth ring for connection between the second pressure liquid supply passage 24B and the reservoir 4 is drawn and expelled through the discharge passage 52.

The passages 54C thus also provide a method of purging the connection.

Murakami therefore cannot be said to inherently disclose flowing the unvaporized liquid into the reservoir 4 as the patent discloses other equally plausible purposes for the connection.

In addition, Applicant submits there is no motivation in this reference or the other cited references to modify or use such passages to return the unvaporized liquid to the container 5. Murakami teaches away from such a modification or combination by disclosing "a cold trap 60 for removing liquid from exhaust." Col. 5, lines 38-40.

For at least these reasons, Applicant submits that Claims 12-34 as amended are in condition for allowance

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

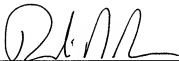
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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